

# House Amendment 8350

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1 1 Amend Senate File 2392, as amended, passed, and  
1 2 reprinted by the Senate, as follows:  
1 3 #1. Page 5, line 35, by striking the words <a  
1 4 plan> and inserting the following: <an act>.  
1 5 #2. Page 9, by striking lines 30 through 34.  
1 6 #3. Page 15, line 2, by striking the figure  
1 7 <508E.14> and inserting the following: <508E.15>.  
1 8 #4. Page 16, line 14, by inserting after the word  
1 9 <contract> the following: <form>.  
1 10 #5. Page 17, line 22, by striking the figures and  
1 11 words: <508E.13, and 508.14> and inserting the  
1 12 following: <508E.14, and 508E.15>.  
1 13 #6. Page 18, line 28, by striking the figure  
1 14 <508E.14> and inserting the following: <508E.15>.  
1 15 #7. Page 28, line 29, by striking the word <sixty>  
1 16 and inserting the following: <thirty>.  
1 17 #8. Page 28, line 31, by striking the word  
1 18 <thirty> and inserting the following: <fifteen>.  
1 19 #9. Page 30, by striking lines 10 through 12, and  
1 20 inserting the following: <contracts shall be made  
1 21 only by a duly licensed viatical settlement provider  
1 22 or by the authorized>.  
1 23 #10. Page 30, by striking lines 26 through 28.  
1 24 #11. Page 35, by striking lines 26 and 27, and  
1 25 inserting the following:  
1 26 <A viatical settlement broker, or viatical>.  
1 27 #12. Page 35, line 29, by striking the words  
1 28 <plan, transaction,> and inserting the following:  
1 29 <transaction>.  
1 30 #13. Page 36, line 10, by striking the words  
1 31 <broker, and> and inserting the following: <broker,  
1 32 and, if the policy was issued less than two years from  
1 33 the date of application for a viatical settlement  
1 34 contract,>.  
1 35 #14. Page 37, line 12, by striking the figure  
1 36 <508E.16> and inserting the following: <508E.17>.  
1 37 #15. Page 38, line 2, by striking the word <sixty>  
1 38 and inserting the following: <thirty>.  
1 39 #16. Page 38, line 4, by striking the word  
1 40 <thirty> and inserting the following: <fifteen>.  
1 41 #17. By striking page 40, line 12, through page  
1 42 42, line 30, and inserting the following:  
1 43 <Sec. \_\_\_\_\_. NEW SECTION. 508E.11 PROHIBITED  
1 44 PRACTICES.  
1 45 1. Except as provided in section 508E.12, it is a  
1 46 violation of this chapter for any person to enter into  
1 47 a viatical settlement contract at any time prior to  
1 48 the application or issuance of a policy which is the  
1 49 subject of a viatical settlement contract or within a  
1 50 five-year period commencing with the date of issuance  
2 1 of the insurance policy or certificate.  
2 2 2. An insurer shall not, as a condition of  
2 3 responding to a request for verification of coverage  
2 4 or effecting the transfer of a policy pursuant to a  
2 5 viatical settlement contract, require that the viator,  
2 6 insured, viatical settlement provider, or viatical  
2 7 settlement broker sign any form, disclosure, consent,  
2 8 or waiver form that has not been expressly approved by  
2 9 the commissioner for use in connection with viatical  
2 10 settlement contracts in this state.  
2 11 3. Upon receipt of a properly completed request  
2 12 for change of ownership or beneficiary of a policy,  
2 13 the insurer shall respond in writing within twenty  
2 14 days, with written acknowledgment confirming that the  
2 15 change has been effected or specifying the reasons why  
2 16 the requested change cannot be processed. The insurer  
2 17 shall not unreasonably delay effecting a change of  
2 18 ownership or beneficiary and shall not otherwise seek  
2 19 to interfere with any viatical settlement contract  
2 20 lawfully entered into in this state.  
2 21 Sec. \_\_\_\_\_. NEW SECTION. 508E.12 PERMITTED  
2 22 PRACTICES.  
2 23 1. Notwithstanding section 508E.11, at any time  
2 24 subsequent to the issuance of the policy, a person may

2 25 enter into a viatical settlement contract if the  
2 26 viator certifies to the viatical settlement provider  
2 27 that one or more of the following conditions have been  
2 28 met within the five-year period:

2 29 a. The policy was issued upon the viator's  
2 30 exercise of conversion rights arising out of a group  
2 31 or individual policy, provided the total of the time  
2 32 covered under the conversion policy plus the time  
2 33 covered under the prior policy is at least sixty  
2 34 months. The time covered under a group policy shall  
2 35 be calculated without regard to any change in  
2 36 insurance carriers, provided the coverage has been  
2 37 continuous and under the same group sponsorship.

2 38 b. The viator submits an affidavit to the viatical  
2 39 settlement provider that one or more of the following  
2 40 conditions exists:

2 41 (1) The viator or insured is terminally or  
2 42 chronically ill.  
2 43 (2) The viator's spouse or child dies.  
2 44 (3) The viator divorces the viator's spouse.  
2 45 (4) The viator retires from full-time employment.  
2 46 (5) The viator becomes physically or mentally  
2 47 disabled and a physician determines that the  
2 48 disability prevents the viator from maintaining  
2 49 full-time employment.  
2 50 (6) A final order, judgment, or decree is entered  
3 1 by a court of competent jurisdiction, on the  
3 2 application of a creditor of the viator, adjudicating  
3 3 the viator bankrupt or insolvent, or approving a  
3 4 petition seeking reorganization of the viator or  
3 5 appointing a receiver, trustee, or liquidator to all  
3 6 or a substantial part of the viator's assets.  
3 7 (7) Other circumstances as established as eligible  
3 8 exemptions by the commissioner by rule, including but  
3 9 not limited to substantial adverse financial  
3 10 circumstances or other factors substantially affecting  
3 11 the viator.

3 12 2. Notwithstanding section 508E.11, a person may  
3 13 enter into a viatical settlement contract if at all  
3 14 times prior to the date that is two years after policy  
3 15 issuance, all of the following conditions are met with  
3 16 respect to the policy:

3 17 a. Policy premiums have been funded exclusively  
3 18 with any of the following:

3 19 (1) Unencumbered assets, including an interest in  
3 20 the life insurance policy being financed only to the  
3 21 extent of its net cash surrender value, provided by a  
3 22 person described in section 508E.2, subsection 15,  
3 23 paragraph "d".  
3 24 (2) Fully recourse liability incurred by the  
3 25 insured or a person described in section 508E.2,  
3 26 subsection 15, paragraph "d".

3 27 b. There is no agreement or understanding with any  
3 28 other person to guarantee any such liability or to  
3 29 purchase, or stand ready to purchase, the policy,  
3 30 including through an assumption or forgiveness of the  
3 31 loan.

3 32 c. Neither the insured nor the policy has been  
3 33 evaluated for settlement.

3 34 3. Copies of the affidavits described in this  
3 35 section and documents required by section 508E.10,  
3 36 subsection 1, shall be requested from and provided by  
3 37 the insurer when the viatical settlement provider or  
3 38 viatical settlement broker submits a request to the  
3 39 insurer for verification of coverage. The copies  
3 40 shall be accompanied by a letter of attestation from  
3 41 the viatical settlement provider that the copies are  
3 42 true and correct copies of the documents received by  
3 43 the viatical settlement provider.

3 44 4. If the viatical settlement provider submits to  
3 45 the insurer a copy of the owner's or insured's or  
3 46 insurer's affidavit described in this section when the  
3 47 provider submits a request to the insurer to effect  
3 48 the transfer of the policy or certificate to the  
3 49 viatical settlement provider, the copy shall be deemed  
3 50 to conclusively establish that the viatical settlement  
4 1 contract satisfies the requirement of this section and  
4 2 the insurer shall timely respond to the request.>

4 3 #18. Page 42, line 31, by striking the figure  
4 4 <508E.12> and inserting the following: <508E.13>.

4 5 #19. Page 43, line 4, by inserting after the word

4 6 <broker> the following: <unless such relationship is  
4 7 disclosed to the viator>.  
4 8 #20. Page 43, line 14, by inserting after the word  
4 9 <contract> the following: <unless such relationship  
4 10 is disclosed to the viator>.  
4 11 #21. Page 44, line 2, by inserting before the word  
4 12 <purpose> the following: <sole>.  
4 13 #22. Page 44, line 3, by striking the word <an>  
4 14 and inserting the following: <a primary>.  
4 15 #23. Page 44, by striking lines 4 through 18 and  
4 16 inserting the following:  
4 17 <\_\_\_\_. A person providing premium financing shall  
4 18 not receive any proceeds, fees, or other consideration  
4 19 from the policy or owner of the policy that are in  
4 20 addition to the amounts required to pay principal,  
4 21 interest, and any costs or expenses incurred by the  
4 22 lender or borrower in connection with the premium  
4 23 finance agreement, except for the event of a default,  
4 24 unless either the default on such loan or transfer of  
4 25 the policy occurs pursuant to an agreement or  
4 26 understanding with any other person for the purpose of  
4 27 evading regulation under this chapter. Any payments,  
4 28 charges, fees, or other amounts received by a person  
4 29 providing premium financing in violation of this  
4 30 subsection shall be>.  
4 31 #24. Page 45, line 9, by striking the figure  
4 32 <508E.13> and inserting the following: <508E.14>.  
4 33 #25. Page 50, line 26, by striking the figure  
4 34 <508E.14> and inserting the following: <508E.15>.  
4 35 #26. Page 55, line 13, by striking the figure  
4 36 <508E.15> and inserting the following: <508E.16>.  
4 37 #27. Page 56, line 12, by striking the figure  
4 38 <508E.16> and inserting the following: <508E.17>.  
4 39 #28. Page 56, line 18, by striking the figure  
4 40 <508E.17> and inserting the following: <508E.18>.  
4 41 #29. Page 57, line 3, by striking the figure  
4 42 <508E.18> and inserting the following: <508E.19>.  
4 43 #30. By renumbering as necessary.  
4 44  
4 45  
4 46  
4 47 COMMITTEE ON COMMERCE  
4 48 PETERSEN of Polk, CHAIRPERSON  
4 49 SF 2392.505 82  
4 50 da/rj/10677